

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36816

STATE OF IDAHO,	)	2010 Unpublished Opinion No. 592
	)	
Plaintiff-Respondent,	)	Filed: August 12, 2010
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
THOMAS AARON PEDERSEN,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

---

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Madison County. Hon. Gregory W. Moeller, District Judge.

Order granting I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

---

Before GUTIERREZ, Judge; GRATTON, Judge;  
and MELANSON, Judge

---

PER CURIAM

Thomas Aaron Pedersen pled guilty to lewd conduct with a child under sixteen. I.C. § 18-1508. The district court sentenced Pedersen to a unified term of fifteen years, with a minimum period of confinement of five years. The district court retained jurisdiction for 180 days, but thereafter relinquished jurisdiction. Pedersen filed an I.C.R 35 motion. The district court granted Pedersen's Rule 35 motion and reduced his sentence to an indeterminate term of twelve years, with a minimum period of confinement of five years. Pedersen appeals.

Initially, we note that a lower court's decision to grant or deny a Rule 35 motion will not be disturbed in the absence of an abuse of discretion. *State v. Villarreal*, 126 Idaho 277, 281, 882 P.2d 444, 448 (Ct. App. 1994). Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established. *See State v. Hernandez*,

121 Idaho 114, 822 P.2d 1011 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 680 P.2d 869 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (Ct. App. 1982). Since the district court later modified Pedersen's sentence, pursuant to his Rule 35 motion, we will only review Pedersen's modified sentence for an abuse of discretion. *See State v. McGonigal*, 122 Idaho 939, 940-41, 842 P.2d 275, 276-77 (1992).

Pedersen has the burden of showing a clear abuse of discretion on the part of the district court in failing to further reduce the sentence on Pedersen's Rule 35 motion. *See State v. Cotton*, 100 Idaho 573, 577, 602 P.2d 71, 75 (1979). Pedersen has failed to show such an abuse of discretion. Accordingly, the order of the district court granting Pedersen's Rule 35 motion is affirmed.